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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,697	08/20/2003	Luca Blessent	020618	9295
23696	7590	10/23/2006	EXAMINER	
QUALCOMM INCORPORATED			DEPPE, BETSY LEE	
5775 MOREHOUSE DR.			ART UNIT	
SAN DIEGO, CA 92121			PAPER NUMBER	
			2611	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JK

Office Action Summary	Application No. 10/645,697	Applicant(s) BLESSENT ET AL.	
	Examiner Betsy L. Deppe	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-10,13,14,16-18,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 2,6,11,12,15 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/9/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "108" and "214" are not shown in Figure 2 (see last two lines of paragraph [0022]).
2. The drawings are objected to because:
 - a. in Figure 3, "309" should be "304" in order to be consistent with page 7, lines 17, 19 and 22; and
 - b. in Figure 5, "524" on level 506 should be "528" (see page 10, lines 16 and 22) to avoid duplication with reference number "524" on level 514.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings

for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:
 - a. on page 10, line 30, it appears that the second occurrence of "node 520" should be "node 530" since paragraph [0034] describes the selection of node 530;
 - b. on page 11, lines 5 and 6, it appears that "unavailable parent node (520)" should be "unavailable parent node (516)" (see page 10, lines 15-17);
 - c. on page 11, line 16, the Examiner suggests inserting "in Fig. 6A" after "component 602";
 - d. on page 11, line 17, the Examiner suggests inserting "in Fig. 6B" after "component 604"; and
 - e. on page 11, line 16, the Examiner suggests inserting "in Fig. 6C" after "component 606".

Appropriate correction is required.

Claim Objections

5. The claims are objected to because of the following informalities:
- a. in claims 3 and 16, "the length" on line 4 should be "a length";
 - b. in claim 10, "less than" on line 3 appears to be inconsistent with "greater than" in Figure 6B and on page 12, lines 14-18 wherein "target length" corresponds to "j" and "length of identified spreading sequence" corresponds to "k";
 - c. in claims 11 and 12, "greater than" on line 2 appears to be inconsistent with "less than" in order to be consistent with steps 626 and 632 in Figure 6B; and
 - d. in claim 12, line 2, "target is" should be "target length is."
- Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-5, 7, 14, 16-18, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Magnusson et al. (US Patent No. 6,163,524).
8. With regard to claims 1, 3, 4, 14, 16, 17 and 21, Figure 5A of Magnusson et al. discloses a scheduler (540) as claimed. (See Figures 4, 6 and 8; and column 9, lines 46-67)

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9. With regard to claims 5 and 18, Magnusson et al. discloses the claimed invention including the codes comprising a Walsh code. (See column 3, lines 46-51 and column 4, lines 58-63)

10. With regard to claims 7 and 20, Figure 5A of Magnusson et al. discloses the claimed invention including a selector element (512, 514) that spreads communications with the selected spreading sequence.

11. Claims 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Magnusson (US Patent No. 7,054,294 B2).

12. With regard to claim 8, Figures 7/7A of Magnusson discloses the claimed invention including a scheduler (e.g. 100 in Figure 5) configured to identify an available spreading sequence having the shortest length (see steps 7-1 through 7-3 and column 8, lines 39-61), determining a target length (i.e. "the required/requested spreading factor") (see step 7-5 and column 9, lines 11-13) and selecting an available spreading sequence based on the comparison (see step 7-6 and column 9, lines 13-42).

13. With regard to claims 9 and 10, Figures 7/7A of Magnusson discloses the claimed invention including the target length being equal to the selected spreading sequence. (See steps 7-6 and 7-8)

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Magnusson. Magnusson discloses the claimed invention except for determining target length by measuring the capacity of the communications channel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to measure the capacity of the communications channel to determine the target length in order to maximize the data transmission rate by using a code length that corresponds to the maximum capacity of the communications channel.

Allowable Subject Matter

16. Claims 2, 6, 11, 12, 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsy L. Deppe whose telephone number is (571) 272-3054. The examiner can normally be reached on Monday, Tuesday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Betsy L. Deppe
Primary Examiner
Art Unit 2611